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**Human Rights Council
Working Group on Arbitrary Detention****Opinions adopted by the Working Group on Arbitrary
Detention at its ninety-second session, 15–19 November 2021****Opinion No. 51/2021 concerning Mehmet Ali Öztürk (United Arab
Emirates)**

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 42/22.

2. In accordance with its methods of work,¹ on 25 May 2021 the Working Group transmitted to the Government of the United Arab Emirates a communication concerning Mehmet Ali Öztürk. The Government replied to the communication on 13 July 2021. The State is not a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

¹ A/HRC/36/38.

Submissions

Communication from the source

4. Mehmet Ali Öztürk is a Turkish national, born in 1968 in the city of Mersin, Turkey. He is a businessman and usually resides in Mersin province with his family. Until his arrest in 2018, together with his wife, he was running a family company, BLC Bakliyat İç ve Dış Ticaret Limited Şirketi (BLC Pulses Domestic and International Co. Ltd), which traded in food. According to the source, Mr. Öztürk was 50 years old at the time of his detention, and he has no previous criminal record.

5. The source adds that in addition to being a businessman, Mr. Öztürk carried out humanitarian aid activities for suffering and poor people in various parts of Iraq (Kirkuk and Telafer) and the Syrian Arab Republic, and in Africa (Malawi and Madagascar). In 2013, he established an association, the Fraternal Association of Hills and Districts of the Turkmen Mountains, in accordance with the Turkish Law of Associations. As the founding chairman of the association, he facilitated the delivery to Syrian and Iraqi districts of humanitarian aid in the form of water, clothing, food and other items. Through his association and with the permission of the Governorship of Mersin, all aid was reportedly delivered to the needy in accordance with the applicable laws. Mr. Öztürk also received the support of the authorities of the Turkish Red Crescent to facilitate border crossings.

6. According to the source, there are now approximately more than 4 million Syrian refugees in Turkey and as one of the many people of the southern part of Turkey, Mr. Öztürk felt obliged to help those with basic human needs, such as food and shelter. The source notes that Mr. Öztürk's legitimate and authorized humanitarian aid deliveries in the north of the Syrian Arab Republic made him a target for the United Arab Emirates.

a. Arrest, detention and trial

7. The source reports that on 18 February 2018, Mr. Öztürk and his wife travelled to the United Arab Emirates, with the support of the Turkish Ministry of Economy, to represent their company at the Gulfood Fair, the world's largest trade show, held in Dubai. This was reportedly one of many visits that the couple had paid to the United Arab Emirates for business.

8. On the morning of 20 February 2018, on the third day of their business trip, Mr. and Mrs. Öztürk were reportedly arrested at the Sheraton Hotel in Dubai by a group of plainclothes individuals who did not provide any reasons for their arrest, show any warrant or provide any information about their identity. They first took the couple to their hotel room. When they arrived, the door of their room was open and someone was inside searching it. Their mobile phones were confiscated and the couple was told not to ask any questions; they were then asked to pack their suitcases before they went down to the lobby, led by more individuals. The source adds that they were subsequently taken outside the hotel, put into armoured vehicles after their heads were covered with bags, handcuffed and taken to an unknown detention facility. During the arrest, Mr. Öztürk's mouth was reportedly clamped tightly shut by the individuals who had arrested him, who acted more like abductors than State agents. Mrs. Öztürk was reportedly put into a cell, released the next day and transferred to Dubai Airport.

9. The source reports that Mr. Öztürk was taken from Dubai to Abu Dhabi where the source believes that he was possibly held at a former American base and/or a secret detention and intelligence centre. Immediately after his arrest, Emirati officers allegedly subjected Mr. Öztürk to torture and ill-treatment, including severe forms of torture for 52 days in a row. This included being (a) subjected to prolonged sleep deprivation, in some instances for three days in a row and beaten, including on his head, to wake him; (b) subjected to waterboarding, as a result of which he lost consciousness several times; (c) placed in solitary confinement in a cell immediately after his arrest for more than one year; (d) exposed to continuous light and laser beam lighting that caused extreme excruciating headaches, dizziness, hallucinations and muscle spasms; (e) soaked in ice cold water; (f) subjected to electric shocks in an electric chair; (g) constantly had his food adulterated with drugs, causing severe stomach pains; (h) given numerous injections that resulted in his losing consciousness; and (i) beaten regularly.

The source alleges that in addition to these methods of torture, Mr. Öztürk was shown the most recent pictures of a family member who was studying in the United States of America at the time and received threats against his life.²

10. According to the source, the objective of the torture was allegedly to extract, or in other words to produce, an incriminating confession from Mr. Öztürk with regard to the activities of the Government of Turkey in the Syrian Arab Republic. An interrogator who spoke fluent Turkish was reportedly present and constantly tried to convince Mr. Öztürk to confess, including, among other things, offering him a large sum of money. The constant request of the interrogators was reportedly that he make false allegations about the activities of the Government of Turkey and its leadership. The source also reports that the Emirati authorities constantly asked Mr. Öztürk questions with respect to the relationship between Turkey and Qatar in order to extract an incriminating confession from him, not only about the Government of Turkey but also about Qatar, which, according to the source, crystallizes the political nature of Mr. Öztürk's ongoing detention. For example Mr. Öztürk was repeatedly asked to say on camera that the Government of Turkey supported Islamic State in Iraq and the Levant (ISIL) and after each refusal to provide such a forced false confession, his interrogators allegedly continued to torture him until at times he lost consciousness. Mr. Öztürk reportedly lost 25 kilos in weight during his period of incommunicado detention.

11. The source is of the view that Mr. Öztürk is still in detention because of the political cleavage between the United Arab Emirates and Turkey, and that he is being held as a hostage rather than a detainee or a convict. Although he refused to make false confessions, Mr. Öztürk does not remember whether he was forced to sign a document in a language which he did not understand.

12. According to the source, Mr. Öztürk was detained incommunicado from his arrest until his first trial hearing on 3 October 2018. In other words, he was detained incommunicado for 225 days and in solitary confinement for more than a year. The source adds that Mr. Öztürk's family in Turkey was not informed whether he was dead or alive until three and a half months after he was detained, when he was first allowed to call them. Likewise, the Emirati authorities did not inform the Turkish Embassy. They subsequently allowed Mr. Öztürk to call his wife once or twice each month, but they were only allowed to talk for 3–4 minutes. In addition, he was reportedly banned from revealing his location and in order to guarantee this he was forced to speak in English, a language that Mr. Öztürk speaks very poorly.

13. The source reports that in September 2018, after more than seven months of incommunicado and secret detention, Mr. Öztürk was brought before a judge for the first time. The indictment prepared by the authorities claimed that Mr. Öztürk was transferring aid not to civilians but to radical armed groups. Upon his first court appearance, his family hired a lawyer, who is an Emirati citizen from Abu Dhabi.

14. On 3 October 2018, the first hearing of Mr. Öztürk's trial took place. He was tried according to Law No. 7 of 2014 on combating terrorism offences, notably articles 1, 3, 29, 31/1, 34/1, 43 and 45, based on charges of supporting a foreign terrorist organization in a foreign country.

15. The source reports that the authorities did not allow Mr. Öztürk to meet his lawyer to prepare his defence and that the Emirati Security Tribunal did not put forward any reliable evidence. In addition, representatives of the Turkish Embassy were not allowed into the courtroom. The source adds that Mr. Öztürk did not have a proper interpreter during the trial: the interpreter he was given was a Bosnian national who was not able to translate from Turkish to Arabic or vice versa and furthermore, the Court did not allow the interpreter employed by the Turkish Embassy into the trial.

16. On 25 December 2018, Mr. Öztürk was sentenced to life imprisonment based upon Law No. 7 of 2014 on combating terrorism offences and to deportation from the country after the term of his imprisonment. The source adds that Mr. Öztürk subsequently appealed against his conviction and the Court reaffirmed it in May 2019.

² The source refers to opinion No. 28/2019, para. 8.

b. Current status

17. The source reports that after his conviction, Mr. Öztürk was transferred to Al Wathba prison in Abu Dhabi. Officials from the Turkish Embassy were allowed to visit him only after his conviction, that is from January 2019 onwards. Yet, at the time of the source's submission, owing to measures relating to the coronavirus disease (COVID-19) pandemic, they have not been able to visit him for more than nine months. The source submits that the life and health of Mr. Öztürk are in grave and constant danger. He continues to be subject to unacceptable conditions in Al Wathba prison and possible abuse, causing serious threats to his physical and psychological integrity. After his transfer to the prison, he was allegedly subjected to abuse and attacks by prison guards and inmates. In addition, two inmates have died from COVID-19 but the prison authorities reportedly do not provide even the most basic sanitary materials, including soap. The source adds that family members of prisoners in Al Wathba prison have reported that prisoners have exhibited symptoms of COVID-19 or tested positive for the virus. They say that prisoners, including some with chronic health conditions, have been denied adequate medical care. Overcrowding and unsanitary conditions make social distancing and recommended hygiene practices very difficult.

c. Analysis of violations

18. In the light of the above information, the source submits that the arrest and detention of Mr. Öztürk constitute a prima facie case of violation of his fundamental rights enshrined in international law, falling under categories I and III.

i. Category I

Secret detention and incommunicado detention

19. The source submits that Mr. Öztürk, who as a foreign national was particularly vulnerable in a foreign jurisdiction, has been subjected to secret and incommunicado detention for a long period of time.

20. Mr. Öztürk was reportedly arrested without a warrant and was not given any reason for his arrest. He was detained in a secret facility for a period of 225 days, more than seven months, after which he was brought before a judicial authority in September 2018. The source submits that Mr. Öztürk was placed outside the protection of the law for that period and was thus deprived of his liberty without a legal basis from when he was arrested until he was charged in September 2018. Accordingly, his detention was not grounded in law and was in violation of article 9 of the Universal Declaration of Human Rights and articles 14 (2) and (3) and 16 (1) of the Arab Charter on Human Rights.

21. The source further submits that Mr. Öztürk was forcibly disappeared for the first three and a half months of his detention. As a result, he was placed outside the protection of the law and deprived of his legal safeguards as a detainee, including his right to legal counsel and to habeas corpus, in violation of his rights under articles 14 (6) and 22 of the Arab Charter on Human Rights. The source adds that incommunicado detention in a secret location, in addition to being a flagrant violation of the right to a fair trial, also amounts to a prima facie enforced disappearance.³ The source thus asserts that the arrest and prolonged incommunicado detention of Mr. Öztürk by the Emirati authorities lack any legal basis in violation of articles 3, 6 and 9 of the Universal Declaration of Human Rights and articles 14 (1), (2) and (3) and 16 (1) of the Arab Charter. The source therefore submits that Mr. Öztürk's arrest and subsequent detention are arbitrary, falling within category I.

Arrest and detention without legal justification and without evidence of a crime

22. The source recalls that Mr. Öztürk was arrested on 20 February 2018 and subsequently held in secret detention. He was charged only during his court appearance in September 2018, more than seven months after his arrest. The source submits that his detention was devoid of

³ The source refers to opinion No. 76/2017, para. 59.

any legal basis from 20 February 2018 to September 2018 and that it was therefore arbitrary, falling within category I.

23. The source further submits that Mr. Öztürk's trial and conviction was also devoid of any plausible legal basis, since he was tried according to the notoriously vaguely worded Law No. 7 of 2014. The source submits that this law violates the principle of legal certainty and it has reportedly been heavily criticized by United Nations bodies for its overly ambiguous wording and for being susceptible to subjective interpretation.⁴ The source thus submits that Law No. 7 does not conform to either the international human rights obligations of the United Arab Emirates or best practices in relation to counter-terrorism. The source also submits that Law No. 7 does not qualify as law within the meaning of the *nullum crimen sine lege* principle and its most important component, the *lex certa* principle.

24. The source recalls that Mr. Öztürk was accused of supporting designated terrorist organizations in the United Arab Emirates. However, according to the source, Mr. Öztürk did not provide aid to such groups but delivered aid to people in need in a region where there were resistance groups who were opposing the regime in Damascus. The source adds that this is a well-known fact with regard to non-international armed conflicts and it would appear that the authorities in the United Arab Emirates are detaining Mr. Öztürk solely because he might have brought aid to conflict zones controlled by groups deemed enemies of the United Arab Emirates. In doing so, the United Arab Emirates reportedly used, as it did in many cases, its vaguely worded Law No. 7 of 2014. The source adds that it is a sad fact that Mr. Öztürk received a life sentence solely on the basis of some pictures taken and posted on Facebook by himself while he was delivering humanitarian aid to those most in need.

25. The source also adds that Mr. Öztürk legitimately and without discrimination facilitated and provided humanitarian aid for those most in need. Accordingly, the source strongly believes that Mr. Öztürk is being held in detention on baseless and purely politically motivated charges, which have the sole purpose of advancing the policies of the United Arab Emirates and punishing those, including foreign nationals, whom they regard as enemies. The source adds that Mr. Öztürk received a life sentence without any viable, concrete evidence.

Right to be considered a person before the law

26. The source submits that enforced disappearance is a *prima facie* form of arbitrary detention and the period during which Mr. Öztürk was forcibly detained thus constitutes a violation of his right to be considered a person before the law, in contravention of the Universal Declaration of Human Rights and article 22 of the Arab Charter on Human Rights.

Rights to habeas corpus and to be brought promptly before a judicial authority

27. The source submits that in placing Mr. Öztürk outside of the protection of the law, his enforced disappearance deprived him of his legal safeguards as a detainee, including the right to habeas corpus and the right to be brought promptly before a judicial authority, in violation of his rights under articles 8, 9 and 10 of the Universal Declaration of Human Rights, articles 14 (6) and 22 of the Arab Charter on Human Rights and principles 11, 32 and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

ii. Category III

28. The source further submits that the detention of Mr. Öztürk by the United Arab Emirates also amounts to an arbitrary deprivation of liberty under category III. As is set out above, Mr. Öztürk was arrested without a warrant and was not promptly informed of either the reasons for his arrest or of any charges against him. He was also held incommunicado in a secret location for a period of more than seven months. The source adds that the incommunicado detention of Mr. Öztürk also entailed violations of his right to notify and communicate with his family, the Turkish Embassy and his lawyer, in accordance with

⁴ The source refers to a communications sent by a number of special procedures regarding Law No. 7, available from <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25663>.

principles 15, 16, 17, 18 and 19 of the Body of Principles, and his right to be brought promptly before a judge and to be tried within a reasonable time, as stipulated in principles 37 and 38 of the Body of Principles.

Right not to be subjected to arbitrary arrest

29. In the present case, Mr. Öztürk was reportedly not informed of the grounds for his arrest at the time he was seized and detained on 20 February 2018, which constitutes a direct violation of the prohibition of arbitrary arrest. He was detained by a group of plainclothes individuals who did not show Mr. Öztürk a warrant, who covered his head with a plastic bag instead and put him and his wife into armoured cars, which took them to a secret detention facility. Mr. Öztürk was kept in conditions of solitary confinement without any notification of the charges against him for over seven months. The source submits that as a result, the United Arab Emirates violated his rights under article 9 of the Universal Declaration of Human Rights, articles 14 and 16 (1) of the Arab Charter on Human Rights, and principles 2, 10 and 36 (2) of the Body of Principles.

Incommunicado detention and secret detention

30. In the present case, Mr. Öztürk was reportedly held incommunicado for more than seven months after his arrest and was not given access to a judicial authority to evaluate the legality of his arrest. He was not brought before a judge until the beginning of September 2018. The source asserts that the violation by the United Arab Emirates of this right enabled other violations, such as torture, to occur while Mr. Öztürk was held incommunicado during that time. As a result, the United Arab Emirates violated his rights under article 3 of the Universal Declaration of Human Rights and article 14 (5) of the Arab Charter on Human Rights.

Torture and cruel, inhuman and degrading treatment

31. The source submits that Mr. Öztürk, in addition to being held incommunicado which, according to the source, constitutes a form of torture in itself, was allegedly subjected to severe forms of torture for 52 days in a row (see para. 9 above).⁵ The source submits that these acts contravene the absolute prohibition of torture as enshrined in articles 1, 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 5 of the Universal Declaration of Human Rights and principle 6 of the Body of Principles. The source also submits that the arrest, detention and trial of Mr. Öztürk as a foreign national and the subsequent torture against him fit into the alleged pattern of systematic torture and arbitrary detention of the United Arab Emirates.⁶

32. With regard to the right to a fair trial, the source submits that the prolonged incommunicado detention of Mr. Öztürk for over seven months in a secret prison violated his right to a fair trial and the presumption of innocence, in violation of articles 10 and 11 of the Universal Declaration of Human Rights and articles 8, 12, 13 and 16 of the Arab Charter on Human Rights.

Right to consular contact and assistance

33. The source submits that in the present case, the United Arab Emirates did not comply with its obligations to notify Turkey to ensure due consular assistance to its national. Indeed, according to the source, Mr. Öztürk's right to consular assistance has been violated by the Emirati authorities throughout his ongoing detention and the officials of the Turkish Embassy were allowed to visit him only after he was sentenced to life imprisonment in January 2019. Since the outbreak of the COVID-19 pandemic, the Embassy officials have not been allowed to visit Mr. Öztürk. The source notes that the importance of the denial of such a crucial instrument is in the present context heightened, since Mr. Öztürk is still detained because of

⁵ The source refers to opinions No. 28/2019, paras. 8 and 69, and No. 34/2020, paras. 21–23 and 59.

⁶ The source refers to [A/HRC/29/26/Add.2](#), para. 52, and opinion No. 28/2019, para. 78.

alleged crimes of terrorism. The source also refers to the jurisprudence of the Working Group in this respect.⁷

34. The source further submits that Mr. Öztürk's right to consular assistance was not limited to the period of his incommunicado detention. During his trial, the officials of the Turkish Embassy were not allowed to attend the hearings. Furthermore, the court did not allow the interpreter of the Turkish Embassy into the trial and instead provided an interpreter who was not able to translate from Arabic to Turkish or vice versa. The source refers to the jurisprudence of the Working Group whereby it stated that: "In respect of foreign nationals detained abroad, a meeting with consular officials may constitute the only avenue for the detainee to be informed about how to exercise his or her fair trial rights, for instance the right to habeas corpus and the right to effective access to a lawyer."⁸

35. The source notes that the Turkish Embassy was informed on the day of Mr. Öztürk's arrest by colleagues of his wife. They were present while the couple was arrested at their hotel and the Turkish consular officers reportedly sought to get information and subsequently to visit Mr. Öztürk and have access to him, only to be turned back by the Government. In that respect, the source refers to the jurisprudence of the Working Group in relation to violations of the right to consular assistance of foreign detainees.⁹

36. The source therefore submits that notwithstanding the efforts made by the Turkish Embassy, the United Arab Emirates violated Mr. Öztürk's right to consular assistance, as stipulated in article 36 (2) of the Vienna Convention on Consular Relations and principle 16 (2) of the Body of Principles.

Right to access to legal counsel

37. The source notes that article 14 (3) of the Covenant forms the core of a detainee's right to access legal counsel, which includes the right to notify and communicate with a legal counsel. The source adds that there is also an obligation under principle 18 (3) of the Body of Principles and rule 61 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which stipulate that defendants must have access to legal counsel without delay.

38. The source submits that from the beginning of his detention until his first trial hearing, Mr. Öztürk was denied access to legal counsel. He was unable to contact his lawyer prior to his first court appearance in September 2018. He was, therefore, not able to prepare his defence in a foreign country in a language which he can neither speak nor understand. The source thus submits that Mr. Öztürk was unable to properly prepare his defence, in violation of article 11 of the Universal Declaration of Human Rights and principles 17 and 18 of the Body of Principles.

Right to be tried by an independent and impartial court

39. According to the source, Mr. Öztürk was tried before the State Security Chamber of the Federal Supreme Court, which is a court of first and last instance competent in matters of State security and terrorism. The source submits that the Court violated Mr. Öztürk's right to a fair trial. With reference to the jurisprudence of the Working Group, the source submits that the characteristics of the Federal Supreme Court do not meet the standard of a fair trial by "an independent and impartial tribunal" under article 10 of the Universal Declaration of Human Rights and article 14 (1) of the Covenant.¹⁰ Accordingly, the source asserts that a trial before such a tribunal constitutes one of the flagrant denials of Mr. Öztürk's right to a fair trial.

⁷ A/HRC/39/45, paras. 50–58.

⁸ Ibid., para. 57.

⁹ The source refers to opinions No. 28/2019, paras. 71–76, and No. 34/2020, para. 56.

¹⁰ Opinions No. 55/2019, para. 41, and No. 21/2017, paras. 48–54.

Right to have an interpreter

40. The source notes that the failure to provide a translation or translator when charging a detainee is a due process violation. It also refers to principle 14 of the Body of Principles.

41. According to the source, Mr. Öztürk was tried in a language he cannot speak and the interpreter provided by the Court was a Bosnian who was not able to translate from Arabic to Turkish or vice versa. Furthermore, the interpreter from the Turkish Embassy was not allowed to attend the trial hearings. With reference to the jurisprudence of the Working Group, the source submits that such acts have been regarded as a violation of the rights enshrined in article 14 (3) (a) and (f) of the Covenant.¹¹

42. In the light of the foregoing, the source submits that the non-observance of the international norms relating to the right to a fair trial in the present case is of such gravity as to give the deprivation of liberty of Mr. Öztürk an arbitrary character.

Response from the Government

43. On 25 May 2021, the Working Group transmitted the allegations made by the source to the Government of the United Arab Emirates under its regular communications procedure. The Working Group requested the Government to provide, by 26 July 2021, detailed information about the current situation of Mr. Öztürk and to clarify the legal provisions justifying his continued detention, as well as its compatibility with the obligations of the United Arab Emirates under international human rights law. The Working Group also called upon the Government to ensure his physical and mental integrity.

44. In its response of 13 July 2021, the Government explained that on 20 February 2018, Mr. Öztürk was arrested in accordance with the rules and legal procedures followed in the United Arab Emirates, after he was informed of the reason for his arrest and the arrest and search warrant was presented. Mr. Öztürk reviewed the warrant in detail and was able to read and understand it, he was also informed of the authority that had carried out the arrest and search and the location of the arrest.

45. The Government asserts that Mr. Öztürk has all the guarantees and rights in accordance with the provisions of the Constitution of the United Arab Emirates and has never been subjected to any violations or infringements of his physical or psychological integrity.

46. The Government notes that on 21 May 2018, Mr. Öztürk was referred to the competent public prosecution, on 6 September 2018, the Public Prosecution Office referred the case file to the competent court and the following charges were brought against him:

(a) Being in the country after cooperating with terrorist organizations (Jabhat al-Nusra and Ahrar al-Sham);

(b) Being in the country after joining terrorist organizations (Jabhat al-Nusra and Ahrar al-Sham) in the Syrian Arab Republic;

(c) Providing funds to terrorist organizations (Jabhat al-Nusra and Ahrar al-Sham);

(d) Providing logistical support to terrorist organizations (Jabhat al-Nusra and Ahrar al-Sham);

(e) Promoting terrorist organizations (Jabhat al-Nusra and Ahrar al-Sham) by publishing news, photos and videos of these organizations.

47. A representative of the Turkish Embassy reportedly attended the court sessions and the judge allowed Mr. Öztürk to comment on the charges against him. During the hearing, he was also allowed to defend himself and see all papers and documents of the case.

48. According to the Government, Mr. Öztürk was not arrested arbitrarily. He was arrested in accordance with the legal rules and procedures followed in the United Arab Emirates, taking into account all legal procedures, and he is currently serving his sentence in

¹¹ Opinion No. 4/2018, para. 69.

one of the penal facilities that are subject to the oversight and supervision of the Public Prosecution.

49. The Government adds that Mr. Öztürk is placed in one of the qualified penal facilities that meet all the standards required to ensure the safety of prisoners in terms of food, environment, air conditioning, ventilation and entertainment, as well as receiving visits from their families and communications, in accordance with the provisions of the law on penal facilities.

50. According to the Government, Mr. Öztürk has not been subjected to any form of torture, cruel or inhuman treatment, or deprivation of the rights guaranteed to him under federal legislation, which are in line with the universal principles of human rights. The Constitution of the United Arab Emirates stipulates the equality of all before the law and prohibits all forms of degrading treatment.

51. Mr. Öztürk was allowed to receive visits and was visited by named representatives of the Turkish Embassy. After the outbreak of the COVID-19 pandemic at the beginning of 2020 and in the light of the precautionary measures taken by the competent authorities in the country, as in the rest of the world, in order to protect inmates in penal institutions from infection with the virus, communication with Mr. Öztürk was limited to telephone calls, through which he is in constant contact with his family members. The most recent contact was with his wife on 6 June 2021.

52. The Government notes that according to the provisions of the federal legislation, in particular the federal law on criminal procedures, every accused person whose case is heard before the court has the right to appoint a lawyer to defend him in order to establish the principle of the right to defence that was assigned to him. This applies to all persons without discrimination or differentiation. If the accused is unable to appoint a lawyer at his own expense, a lawyer is assigned to him by the court without any expenses incurred by the accused, as the State bears the attorney's fees. A named lawyer was therefore assigned to defend Mr. Öztürk in both instances of litigation.

53. All measures taken by the judicial authorities against Mr. Öztürk, starting at the investigation and accusation stage and ending with the judgment, took place within the legal frameworks stipulated in the federal laws in force. In addition, the Public Prosecution supervised the investigation and inference work. As for the investigation, accusation and interrogation procedures, the Public Prosecution undertakes them as the only competent authority and trials take place before fair and competent courts with specialized judges, who enjoy integrity and complete independence in rendering judgments and perform their duties in accordance with the Constitution and the national laws in force in the country. The law also guarantees a fair trial.

54. According to federal legislation, if the accused is ignorant of the Arabic language he or she has the right to seek the assistance of an interpreter in the language in which he or she is fluent at all stages of the investigation up to and including evidence and trial, as this is one of the rights guaranteed to him by the force of law. For Mr. Öztürk, a named translator was hired.

55. The Government notes that all inmates of penal facilities in the United Arab Emirates have the right to have access to health care as a basic right guaranteed under the final paragraph of article 7 of Federal Law No. 43 of 1992 regarding the organization of penal institutions; the previous paragraph of the law stipulates the need to prepare a comprehensive file on the physical and psychological well-being of each inmate in the penal facility. Mr. Öztürk continues to receive the necessary medical care and he is in good health. Mr. Öztürk was most recently examined on 8 June 2021, including taking a test for COVID-19, of which the result was negative.

56. The Government also notes that further to the spread of the COVID-19 pandemic, the country has made great efforts to respond. That includes the intensification of testing of the population, including persons in penal facilities, to ensure that they are free from infection. In cases of confirmed infection, the person in question is quarantined and receives the necessary health care. The State also pays great attention to persons placed in penal facilities and meets all the standards that are compatible with international human rights principles.

Further comments from the source

57. On 14 July 2021, the response of the Government was sent to the source for further comments. In comments of 27 July 2021, the source first reiterates the material facts with regard to the arrest and incommunicado detention of Mr. Öztürk. The source emphasizes that the Government did not rebut the source's original claims by providing documentary evidence, nor did it address all the important issues raised in the original submission. The source thus submits that Mr. Öztürk is still under arbitrary detention in an Emirati prison.

Discussion

58. The Working Group thanks the source and the Government for their timely submissions.

59. In determining whether the deprivation of liberty of Mr. Öztürk is arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has presented a prima facie case for breach of international law constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations. Mere assertions by the Government that lawful procedures have been followed are not sufficient to rebut the source's allegations.¹² In the present case, the Government of the United Arab Emirates did challenge the prima facie allegations made by the source. It now remains for the Working Group to assess the two conflicting versions so as to ascertain whether indeed the deprivation of liberty of Mr. Öztürk was arbitrary under category I and III as argued by the source. The Working Group thus proceeds to examine the allegations in turn.

Category I

60. The Working Group will first consider whether there have been violations under category I, which concerns deprivation of liberty without a legal basis.

61. The source submits that Mr. Öztürk's arrest on 20 February 2018 was not grounded in law and was in violation of article 9 of the Universal Declaration and articles 14 (2) and (3) and 16 (1) of the Arab Charter on Human Rights, as he was arrested without a warrant and was not given any reason for his arrest. Furthermore, he was reportedly detained in a secret facility for a period of 225 days, during which time he was placed outside the protection of the law. He was eventually presented to a judicial authority more than seven months later in September 2018. The source contends that incommunicado detention in a secret location amounts to a prima facie enforced disappearance.

62. According to the Government's response, Mr. Öztürk was arrested in accordance with the rules and legal procedures followed in the United Arab Emirates after he was informed of the reason for his arrest and the arrest and search warrant were presented. He reviewed it in detail and was able to read and understand it, he was also informed of the authority that carried out the arrest and search and the location of the arrest.

63. The Government also contends that Mr. Öztürk was guaranteed all his rights in accordance with the provisions of the Constitution and has never been subjected to any violations or infringements of his physical or psychological integrity. Further, he was duly charged for being in the country after cooperating with terrorist organizations (Jabhat al-Nusra and Ahrar al-Sham), after joining such terrorist organizations in the Syrian Arab Republic, and for providing funds to and supporting and promoting such terrorist organizations.

64. The Government denies that Mr. Öztürk was held in incommunicado detention, stating that he was held in one of the penal facilities that meet all the standards required to ensure the safety of prisoners and was allowed to receive visits and was visited by named representatives of the Turkish Embassy.

65. The Working Group has stated time and again that in order for a deprivation of liberty to be justified, it must have a legal basis. It is not sufficient for there to be a national law or

¹² [A/HRC/19/57](#), para. 68.

practice authorizing the arrest. The authorities must invoke a legal basis consistent with international human rights standards and apply it to the circumstances of the case.¹³

66. International law on detention includes the right to be presented with an arrest warrant to ensure the exercise of effective control by a competent, independent and impartial judicial authority, which is procedurally inherent in the right to liberty and security and the prohibition of arbitrary deprivation of liberty under articles 3 and 9 of the Universal Declaration of Human Rights and principles 2, 4 and 10 of the Body of Principles.¹⁴

67. While the source has stated that no arrest warrant was presented to Mr. Öztürk at the time of his arrest, the Government maintains that the arrest was in accordance with the rules and legal procedures followed in the United Arab Emirates and that Mr. Öztürk was presented with a warrant and reviewed it in detail (see paras. 44 and 62 above). However, the Working Group observes that the Government does not address the detailed submissions as to how the arrest of Mr. Öztürk was executed or how the arrest warrant was presented to him as he does not speak or understand Arabic. The Government has also not specifically rebutted the source's allegation that Mr. Öztürk was detained by a group of plainclothes individuals who covered his head with a plastic bag, put him and his wife into armoured cars and took them to a secret detention facility.

68. On the conflicting positions as presented, the Working Group is inclined to accept the source's assertion that no arrest warrant was presented at the time of Mr. Öztürk's arrest. The Working Group also accepts the claim by the source that following his arrest on 20 February 2018, Mr. Öztürk was only informed of the charges against him during his court appearance in September 2018, which was more than seven months after his arrest. That is because, as stated earlier, the burden is on the Government to rebut any allegation of impropriety that may bring arrest and detention into conflict with international human rights law. In the view of the Working Group, that burden has not been discharged in the present case. The Working Group thus finds that the failure to provide Mr. Öztürk with an arrest warrant and to timely furnish him with the reasons for his arrest violates articles 3 and 9 of the Universal Declaration of Human Rights and principle 10 of the Body of Principles, and renders his arrest devoid of any legal basis.¹⁵

69. Regarding the source's claim that Mr. Öztürk was kept in incommunicado detention in a secret location for 225 days, the Working Group again finds the explanation of the Government lacking in detail and particularity. The Government did not substantiate its denial of the source's allegations by, for example, providing details of the facility where Mr. Öztürk was detained and the persons who were informed of his detention. For that reason, the Working Group accepts the position as articulated by the source.

70. The source has also submitted, and the Government has not rebutted it, that Mr. Öztürk was only allowed to call his family after three and a half months in detention (see para. 12 above). The Working Group thus considers that Mr. Öztürk was initially detained in circumstances that appear to amount to an enforced disappearance. Enforced disappearance constitutes a particularly aggravated form of arbitrary detention¹⁶ and such deprivation of liberty, entailing a refusal to disclose the fate or whereabouts of the persons concerned or to acknowledge their detention, lacks any valid legal basis under any circumstance and is inherently arbitrary, as it places the person outside the protection of the law, in violation of article 6 of the Universal Declaration of Human Rights.¹⁷ The Working Group therefore refers the present case to the Working Group on Enforced or Involuntary Disappearances.

¹³ See, for example, opinions No. 6/2020, para. 39; No. 33/2020, paras. 53 and 71; and No. 34/2020, para. 44.

¹⁴ The Working Group has maintained from its early years that the practice of arresting persons without a warrant renders their detention arbitrary. See, for example, decisions No. 1/1993, paras. 6–7, and No. 44/1993, paras. 6–7. For more recent jurisprudence, see, *inter alia*, opinions No. 6/2020, para. 40, and No. 34/2020, para. 46. See also article 14 (1) of the Arab Charter on Human Rights.

¹⁵ See also article 14 (1) and (3) of the Arab Charter on Human Rights.

¹⁶ See opinions No. 5/2020, No. 6/2020, No. 11/2020 and No. 13/2020.

¹⁷ See article 1 of the Declaration on the Protection of All Persons from Enforced Disappearance as well as opinions No. 82/2018, para. 28; No. 6/2020, para. 43; No. 33/2020, paras. 58 and 73; and No. 34/2020, para. 49. See also article 22 of the Arab Charter on Human Rights.

71. The Working Group has repeatedly asserted that holding persons incommunicado violates their right to contest the legality of their detention before a court or tribunal.¹⁸ Judicial oversight of any detention is a central safeguard of personal liberty and is critical in ensuring that detention has a legal basis. In the circumstances of Mr. Öztürk's pretrial incarceration, he was unable to challenge his detention before a court.¹⁹ Consequently, his right to an effective remedy under article 8 of the Universal Declaration of Human Rights was violated. He was also placed outside the protection of the law, in violation of his right to be recognized as a person before the law under article 6 of the Declaration.

72. The Working Group also observes that Mr. Öztürk was not brought promptly before a judge within 48 hours of arrest, as is the international standard, barring absolutely exceptional circumstances, set out by the Working Group.²⁰

73. For the reasons set out above, the Working Group finds that the deprivation of liberty of Mr. Öztürk lacks a legal basis and is thus arbitrary and falls under category I.

Category III

74. The source has also submitted that the detention of Mr. Öztürk amounts to an arbitrary deprivation of liberty under category III.

75. The source submits that from the beginning of his detention until his first trial hearing, Mr. Öztürk was denied access to legal counsel and was therefore not able to prepare his defence in a foreign country in a language which he can neither speak nor understand. In its response, the Government states that in accordance with the provisions of the federal legislation, in particular the federal law on criminal procedures, a lawyer was assigned to defend Mr. Öztürk in both instances of litigation.

76. The Working Group considers legal representation a core facet of the right to a fair trial. Legal assistance should be available at all stages of criminal proceedings, namely pretrial, during trial and at the appellate stages, to ensure compliance with fair trial guarantees.²¹ Any denial of access to lawyers substantially undermines and compromises an accused individual's capacity to defend himself in any judicial proceedings.

77. Principle 18 (3) of the Body of Principles and rule 61 (1) of the Nelson Mandela Rules stipulate that defendants must have access to legal counsel without delay. As the Working Group has stated in principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, persons deprived of their liberty have the right to legal assistance by a counsel of their choice at any time during their detention, including immediately after apprehension, and must be promptly informed of this right upon apprehension. Access to legal counsel should not be unlawfully or unreasonably restricted.

78. The Working Group reiterates that it is not enough for a government to have laws on its statute book that guarantee the right to legal representation in conformity with international fair trial standards. The right to a counsel of one's choice in its many permutations must be observed in practice.

79. The Government, in its response, failed to address the specific allegations that legal assistance was denied from the outset of Mr. Öztürk's detention and during his seven months of incommunicado detention. The Government states that a named lawyer was assigned to defend Mr. Öztürk in both instances of litigation. However, the Government also states that when on 21 May 2018, Mr. Öztürk appeared in court and the charges were brought against him, the judge allowed him to comment on the charges and that during the hearing, he was allowed to defend himself and see all papers and documents of the case. There is no suggestion in the Government's response that any lawyer was present or played any role in the process.

¹⁸ See, for example, opinions No. 44/2019, No. 45/2019, No. 15/2020 and No. 16/2020.

¹⁹ A/HRC/30/37, para. 3.

²⁰ See opinions No. 57/2016, paras. 110–111; No. 2/2018, para. 49; and No. 30/2019, para. 30.

²¹ A/HRC/45/16, paras. 50–55.

80. The Working Group therefore considers the source's allegations credible and finds that the absence of a legal counsel for Mr. Öztürk violated his rights to legal assistance as part of his right to a fair trial and due process under articles 10 and 11 (1) of the Universal Declaration of Human Rights and principles 17 and 18 of the Body of Principles.

81. The source has further alleged that the arrest of Mr. Öztürk without a warrant and his incommunicado detention also entailed violations of his right to notify and communicate with his family, the Turkish Embassy and his lawyer in accordance with principles 15, 16, 17, 18 and 19 of the Body of Principles, and his right to be brought promptly before a judge and to be tried within a reasonable time, as stipulated in principles 37 and 38 of the Body of Principles.

82. According to the source, Mr. Öztürk, in addition to being held in incommunicado detention, was also subjected to severe forms of torture for 52 days in a row. The source submits that these acts contravene the absolute prohibition of torture as enshrined in articles 1, 2 and 16 of the Convention against Torture, article 5 of the Universal Declaration of Human Rights and principle 6 of the Body of Principles. The source further submits that the arrest, detention and trial of Mr. Öztürk as a foreign national and his subsequent torture fit into the alleged pattern of systematic torture and arbitrary detention of the United Arab Emirates.

83. In addition, the source alleges that Mr. Öztürk's right to a fair trial, particularly the presumption of innocence, was violated by his prolonged incommunicado detention in violation of articles 10 and 11 of the Universal Declaration of Human Rights and articles 8, 12, 13 and 16 of the Arab Charter on Human Rights.

84. The Working Group refers to its finding under category I that Mr. Öztürk was held incommunicado during the first seven months of his detention (see paras. 69 and 71 above). The Working Group expresses its grave concern at Mr. Öztürk's prolonged incommunicado detention and notes that the General Assembly has consistently held that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.²² In that respect, the Working Group also expresses its grave concern at the allegations by the source that during his detention Mr. Öztürk was subjected to severe forms of torture for 52 days in a row, which were directed at extracting, or in other words producing, an incriminating confession from him. The Working Group notes that the Government, in its response, has merely denied that Mr. Öztürk was subjected to any form of torture, cruel or inhuman treatment without providing any specific details as to what steps the judicial and other authorities undertook to investigate the allegations of the torture and ill-treatment of Mr. Öztürk.

85. According to the source, it is unclear whether Mr. Öztürk, as a result of the alleged torture, was ultimately forced to sign a document in a language which he does not understand. However, if this was the case, the Working Group has already established that this would have occurred whilst Mr. Öztürk was held in incommunicado detention, without access to a lawyer, a submission which has not been rebutted by the Government. As the Working Group has previously stated, the presence of legal counsel during interrogations is an essential safeguard in ensuring that any admissions by an individual are given freely.²³ The Working Group considers that confessions made in the absence of legal counsel are not admissible as evidence in criminal proceedings.²⁴

86. The Working Group is of the view that the allegations set out above would appear to contravene the absolute prohibition of torture as enshrined in articles 1, 2, 15 and 16 of the Convention against Torture, article 5 of the Universal Declaration of Human Rights and principle 6 of the Body of Principles. The Working Group therefore refers the present case to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, for appropriate action.

²² General Assembly resolutions 60/148, para. 11, and 74/143, para. 17.

²³ [A/HRC/45/16](#), para 53.

²⁴ *Ibid.* See also opinions No. 59/2019, No. 14/2019, No. 1/2014 and No. 40/2012, as well as [E/CN.4/2003/68](#), para. 26 (e).

87. The source has further alleged a violation of the right to be tried by an independent and impartial court, as Mr. Öztürk was tried before the State Security Chamber of the Federal Supreme Court, which is a court of first and last instance competent in matters of State security and terrorism (see para. 39 above). In its response, the Government merely notes that Mr. Öztürk's case was referred to the competent court without providing any further details. With reference to its previous jurisprudence, the Working Group agrees with the source that the State Security Chamber of the Federal Supreme Court does not meet the fair trial standard of "an independent and impartial tribunal" under article 10 of the Universal Declaration of Human Rights and that Mr. Öztürk was thus denied the right to a fair trial.²⁵ The Working Group therefore refers the case to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on the independence of judges and lawyers.

88. The source also submits that the failure to provide a translation or translator when charging a detainee is a due process violation. Mr. Öztürk was reportedly tried in a language he cannot speak and the interpreter provided by the Court was a Bosnian who was not able to translate from Arabic to Turkish or vice versa. Furthermore, the interpreter from the Turkish Embassy was not allowed to attend the trial hearings. The Government in turn explains that under federal legislation, if the accused is ignorant of the Arabic language, at all stages of the proceedings he or she has the right to seek the assistance of an interpreter in the language in which he or she is fluent. The Government notes that a named translator was hired in the case of Mr. Öztürk, but it does not provide further details or deny that the individual was a Bosnian national. The Working Group therefore finds a violation of Mr. Öztürk's right to have the assistance of an interpreter, as provided in principle 14 of the Body of Principles.

89. The source also alleges that Mr. Öztürk's right to consular assistance has been violated by the authorities throughout his detention. In its response, the Government states that Mr. Öztürk has been allowed to receive visits and has been visited by named representatives of the Turkish Embassy. Communication was only limited following the outbreak of the COVID-19 pandemic at the beginning of 2020. Mr. Öztürk has since been allowed telephone communication, through which he is in constant contact with his family members, including his wife.

90. The Working Group notes that the Government has not specifically denied the source's submission that Mr. Öztürk's right to consular assistance has been violated by the authorities throughout his detention, that the officials of the Turkish Embassy were allowed to visit him only after he was sentenced to life imprisonment in January 2019 and that during his trial they were not allowed to attend the hearings. With reference to its previous jurisprudence, the Working Group finds that the United Arab Emirates has violated Mr. Öztürk's right to consular assistance, as stipulated in article 36 (2) of the Vienna Convention on Consular Relations and principle 16 (2) of the Body of Principles.²⁶

91. In light of the findings set out above, the Working Group concludes that the violations of Mr. Öztürk's right to a fair trial were of such gravity as to give his deprivation of liberty an arbitrary character, falling under category III.

Category V

92. Although the source has not argued that the detention of Mr. Öztürk is arbitrary under category V, the Working Group takes note of the allegations by the source that the objective of the torture against Mr. Öztürk was to extract, or in other words to produce, an incriminating confession from him with regard to the activities of the Government of Turkey in the Syrian Arab Republic, that he was reportedly requested to raise false allegations against the Government of Turkey and its leadership and that he was constantly asked questions with respect to the relationship between Turkey and Qatar. According to the source, this crystallizes the political nature of Mr. Öztürk's detention and it thus submits that Mr. Öztürk

²⁵ Opinions No. 55/2019, para. 41, and No. 21/2017, paras. 48–54.

²⁶ [A/HRC/39/45](#), paras. 50–58 and Deliberation No. 11, in particular para. 21.

is still in detention because of the political cleavage between the United Arab Emirates and Turkey, and that he is being held as a hostage rather than a detainee or a convict.

93. The source also submits that Mr. Öztürk legitimately and without discrimination facilitated and provided humanitarian aid for those most in need. Accordingly, the source strongly believes that Mr. Öztürk is being held in detention on baseless and purely politically motivated charges, which have the sole purpose of advancing the policies of the United Arab Emirates and punishing those, including foreign nationals, whom they regard as enemies. The source adds that Mr. Öztürk received a life sentence without any viable, concrete evidence. The Government has had the opportunity to respond to those allegations, but it has chosen not to do so.

94. In the absence of any response from the Government, the Working Group notes that it would indeed appear that Mr. Öztürk's nationality has been a motivating factor in his detention and that he has been targeted because he is a Turkish national. The Working Group thus considers that Mr. Öztürk has been deprived of his liberty on the grounds of discrimination, namely on the basis of his nationality, in violation of articles 2 and 7 of the Universal Declaration of Human Rights. His deprivation of liberty is therefore arbitrary, falling under category V.

95. The Working Group further notes the submission by the source that Mr. Öztürk's trial and conviction were devoid of any plausible legal basis, since he was tried according to the vaguely worded Law No. 7 of 2014 on combating terrorism offences and that this law does not conform with either the international human rights obligations of the United Arab Emirates or best practices in relation to counter-terrorism law and practice. The Government, in rebutting the source's assertions, states that the charges under the said law relating to belonging, cooperating, funding and supporting terrorist organizations were legitimate and within the legal framework of the United Arab Emirates.

96. The Working Group recalls that article 11(2) of the Universal Declaration of Human Rights guarantees individuals the right to know what conduct constitutes a crime under the law. Moreover, the Special Rapporteur on terrorism has explained that the standard for legal certainty requires that laws be framed "in such a way that the law is adequately accessible so that the individual has a proper indication of how the law limits his or her conduct; and the law is formulated with sufficient precision so that the individual can regulate his or her conduct."²⁷ For example, the Working Group has previously found that anti-terrorism legislation criminalizing conduct "intended to disturb public order," or "which endangers national unity", or "which defames the State" is indeterminate and overbroad because it covers many actions that are protected under international law.²⁸

97. The Working Group has previously stated that the principle of legality requires that laws be formulated with sufficient precision for the individual to be able to access and understand the law and regulate his or her conduct accordingly.²⁹ The Working Group notes that engaging in humanitarian action while one is exercising the fundamental freedoms of expression, association and movement requires that at the very least there is clarity in the parameter of the conduct constituting the offence, taking into account these freedoms. In this respect, the Working Group notes that laws that are vaguely and broadly worded may have a deterrent effect on the exercise of the rights guaranteed by the Universal Declaration of Human Rights, as they have the potential for abuse, including the arbitrary deprivation of liberty.³⁰

98. In the present case, the application of a vaguely worded and overly broad law adds weight to the Working Group's conclusion that Mr. Öztürk's deprivation of liberty falls within category V. Moreover, the Working Group considers that, in some circumstances, laws may be so vague and overly broad that it is impossible to invoke a legal basis justifying the deprivation of liberty.

²⁷ E/CN.4/2006/98, para. 46.

²⁸ Opinion No. 10/2018, para. 51, See also paras. 52 and 67.

²⁹ Opinions No. 41/2017, paras. 98–101, and No. 62/2018, paras. 57–59.

³⁰ Opinions No. 88/2017, para. 50; No. 57/2017, para. 65; and No. 20/2017, para. 50.

Disposition

99. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Mehmet Ali Öztürk, being in contravention of articles 2, 3, 5, 6, 7, 8, 9, 10 and 11 of the Universal Declaration of Human Rights is arbitrary and falls within categories I, III and V.

100. The Working Group requests the Government of the United Arab Emirates to take the steps necessary to remedy the situation of Mehmet Ali Öztürk without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights.

101. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Öztürk immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law. In the current context of the COVID-19 pandemic and the threat that it poses in places of detention, the Working Group calls upon the Government to take urgent action to ensure his immediate release.

102. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Öztürk and to take appropriate measures against those responsible for the violation of his rights.

103. The Working Group requests the Government to bring its laws, particularly Law No. 7 of 2014 on combating terrorism offences, into conformity with the recommendations made in the present opinion and with the commitments made by United Arab Emirates under international human rights law.

104. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for appropriate action.

105. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

Follow-up procedure

106. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Öztürk has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Öztürk;
- (c) Whether an investigation has been conducted into the violation of Mr. Öztürk's rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the United Arab Emirates with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

107. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

108. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the

opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

109. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.³¹

[Adopted on 16 November 2021]

³¹ See Human Rights Council resolution 42/22, paras. 3 and 7.